

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 25 2008

MOLLY DWYER, ACTING CLERK
U.S. COURT OF APPEALS

RELOISA BENITEZ REYNA,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-72589

Agency No. A70-459-544

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted March 18, 2008^{**}

Before: CANBY, T.G. NELSON and BEA, Circuit Judges.

Reloisa Benitez Reyna, a native and citizen of Philippines, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing her appeal

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

from an immigration judge's decision denying her applications for asylum, withholding of removal and protection under the Convention Against Torture ("CAT"). Reyna also petitions for review of the BIA's decision denying her motion to remand proceedings. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence the agency's denial of asylum and withholding of removal, *Lata v. INS*, 204 F.3d 1241, 1244 (9th Cir. 2000) and we review de novo questions of law, *Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000). We deny in part, and dismiss in part the petition for review.

Substantial evidence supports the agency's determination that Reyna's experiences in the Philippines did not amount to past persecution. *See Lim v. INS*, 224 F.3d 929, 936-37 (9th Cir. 2000). Furthermore, the evidence does not compel the conclusion that Reyna's fear of future persecution is objectively reasonable. *See Mendez-Gutierrez v. Gonzales*, 444 F.3d 1168, 1172 (9th Cir. 2006).

Because Reyna failed to establish eligibility for asylum, she necessarily failed to meet the more stringent standard for withholding of removal. *See Malhi v. INS*, 336 F.3d 989, 993 (9th Cir. 2003).

Reyna's contention that the BIA should be estopped from denying her request to remand proceedings to the IJ fails because she has not shown that the agency's delay in commencing proceedings amounts to affirmative misconduct. *See INS v. Miranda*, 459 U.S. 14, 18-19 (1982).

Reyna's due process contention fails because she did not show that the delayed commencement of removal proceedings prejudiced the outcome of her asylum claim. *See Colmenar*, 210 F.3d at 971-972.

We dismiss Reyna's contention regarding the agency's decision when to commence proceedings because the court lacks jurisdiction. *See Jimenez-Angeles v. Ashcroft*, 291 F.3d 594, 598 (9th Cir. 2002).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.